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and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

In re:  
PG&E CORPORATION,  
- and -  
PACIFIC GAS AND ELECTRIC  
COMPANY,  
Debtors.

- ☐ Affects PG&E Corporation  
☐ Affects Pacific Gas and Electric  
Company  
☒ Affects both Debtors

*\* All papers shall be filed in the Lead Case  
No. 19-30088 (DM).*

Bankruptcy Case No. 19-30088 (DM)

Chapter 11

(Lead Case)

(Jointly Administered)

**FIRST INTERIM FEE APPLICATION OF  
MUNGER, TOLLES & OLSON LLP FOR  
COMPENSATION FOR SERVICES AND  
REIMBURSEMENT OF EXPENSES AS  
ATTORNEYS TO THE DEBTORS AND  
DEBTORS IN POSSESSION FOR CERTAIN  
MATTERS FROM JANUARY 29, 2019  
THROUGH MAY 31, 2019**

**Hearing:**

Date: September 25, 2019

Time: 9:30 a.m. (Pacific Time)

Place: United States Bankruptcy Court

Courtroom 17, 16th Floor

San Francisco, CA 94102

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1 *General Information*

2

<b>Name of Applicant:</b>	<b>Munger, Tolles &amp; Olson LLP</b>
Authorized to Provide Services to:	PG&E Corporation and Pacific Gas and Electric Company
Petition Date:	January 29, 2019
Date of Retention Order:	April 25, 2019, <i>nunc pro tunc</i> to January 29, 2019 <sup>1</sup>

7

8 *Summary of Fees and Expenses Sought In the Fee Application*

9

Period for Which Compensation and Reimbursement is Sought in the Fee Application:	January 29, 2019 through May 31, 2019
Amount of Compensation Sought as Actual, Reasonable, and Necessary for the Fee Period:	\$6,653,996.00
Amount of Expense Reimbursement Sought as Actual, Reasonable, and Necessary for the Fee Period:	\$99,363.65
Total Compensation and Expense Reimbursement Requested for the Fee Period:	\$6,753,359.65

17

18 *Rate Increases Applicable to the Fee Period*

19

Total Amount of Compensation Sought For the Period, Calculated Using Rates as of the Date of Retention:	There have not been any rate increases since the date of retention.
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21

22 *Summary of Past Requests for Compensation and Prior Payments*

23

Total Amount of Compensation Previously Requested Pursuant to the Interim Compensation Order to Date:	\$0
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28 <sup>1</sup> The Order Authorizing Debtors Pursuant to 11 U.S.C. § 327(e) and Fed. R. Bankr. P. 2014(a) and 2016 for Authority to Retain and Employ Munger, Tolles & Olson LLP as Counsel for Certain Matters the Debtors Effective as of the Petition Date [Dkt No. 1677] was entered on April 25, 2019 (the "Retention Order").

1	Total Amount of Expense Reimbursement	\$0
2	Previously Requested Pursuant to the Interim	
3	Compensation Order to Date:	
4	Total Compensation Approved Pursuant to the	\$0
5	Interim Compensation Order to Date:	
6	Total Expense Reimbursement Approved	\$0
7	pursuant to the Interim Compensation Order to	
8	Date:	
9	Total Allowed Compensation Paid to Date:	\$0
10	Total Allowed Expenses Paid to Date:	\$0
11	Compensation Sought in This Fee Application	\$0
12	Already Paid Pursuant to the Interim	
13	Compensation Order But Not Yet Allowed:	
14	Expenses Sought in This Fee Application	\$0
15	Already Paid Pursuant to the Interim	
16	Compensation Order But Not Yet Allowed:	

1 In accordance with the Local Rules for the Northern District of California (the “**Local Rules**”),  
2 Munger, Tolles & Olson LLP (“**MTO**”), attorneys to the above-captioned debtors and debtors in  
3 possession (collectively, the “**Debtors**”) for certain matters, hereby submits its first interim fee  
4 application (this “**Fee Application**”) for allowance of compensation for professional services provided  
5 in the amount of \$6,653,996.00 and reimbursement of actual and necessary expenses in the amount of  
6 \$99,363.65 that MTO incurred for the period from January 29, 2019 through May 31, 2019 (the  
7 “**Interim Fee Period**” or “**Fee Period**”). In support of this Fee Application, MTO has filed the  
8 Declaration of Seth Goldman (the “**Goldman Declaration**”) concurrently with this Fee Application.  
9 In further support of this Fee Application, MTO respectfully states as follows.

10 MTO submits the Fee Application as an interim fee application in accordance with the *Order*  
11 *Pursuant to 11 U.S.C §§ 331 and 105(e) and Fed. R. Bankr. P. 2016 for Authority to Establish*  
12 *Procedures for Interim Compensation and Reimbursement of Expenses of Professionals*, entered on  
13 February 28, 2019 [Docket No. 701] (the “**Interim Compensation Procedures Order**”).

#### 14 **Jurisdiction and Basis for Relief**

15 The Court has jurisdiction over this Fee Application under 28 U.S.C. §§ 157 and 1334, the  
16 *Order Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order 24 (N.D.  
17 Cal.), and Rule 5011-1(a) of the Local Rules. This is a core proceeding pursuant to 28 U.S.C.  
18 § 157(b). Venue is proper before the Court under 28 U.S.C. §§ 1408 and 1409.

19 The basis for the relief requested herein are sections 330 and 331 of the Bankruptcy Code, rule  
20 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), Rule 2016-1(a) of the  
21 Local Rules, and the Interim Compensation Procedures Order. Except where noted in the Goldman  
22 Declaration regarding non-working travel time, MTO has also prepared this Fee Application in  
23 accordance with the *United States Bankruptcy Court Northern District of California Guidelines for*  
24 *Compensation and Expense Reimbursement of Professionals and Trustees*, effective February 19, 2014  
25 (the “**Local Guidelines**”), and the *U.S. Trustee Guidelines for Reviewing Applications for*  
26 *Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger*  
27 *Chapter 11 Cases*, effective November 1, 2013 (the “**U.S. Trustee Guidelines**,” and together with the  
28 Local Guidelines, the “**Fee Guidelines**”).

## Background

### **A. The Bankruptcy Filing and General Case Background**

On January 29, 2019 (the “**Petition Date**”), the Debtors commenced voluntary cases under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, or examiner has been appointed in either of the chapter 11 cases. The Debtors’ chapter 11 cases are being jointly administered for procedural purposes only, pursuant to Bankruptcy Rule 1015(b).

On February 12, 2019, the United States Trustee (the “**U.S. Trustee**”) appointed an Official Committee of Unsecured Creditors (the “**Creditors Committee**”). On February 15, 2019, the U.S. Trustee appointed an Official Committee of Tort Claimants (the “**Tort Claimants Committee**” and, together with the Creditors Committee, the “**Committees**”). Additional information regarding the circumstances leading to the commencement of the chapter 11 cases and information regarding the Debtors’ businesses and capital structure is set forth in the *Amended Declaration of Jason P. Wells in Support of the First Day Motions and Related Relief* [Docket No. 263] (the “**Wells Declaration**”).

### **B. Debtors’ Retention of MTO**

On April 1, 2019, the Debtors filed the *Application of Debtors Pursuant to 11 U.S.C. § 327(e) and Fed. R. Bankr. P. 2014(a) and 2016 for Authority to Retain and Employ Munger, Tolles & Olson LLP as Attorneys for Certain Matters for the Debtors Effective as of the Peittion Date* [Docket No. 1167] (the “**Retention Application**”). The declaration of Janet Loduca was filed on April 1, 2019 [Docket No. 1169] in support of the Retention Application. The declaration of Henry Weissmann was filed in support of the Retention Application on April 1, 2019 [Docket No. 1168], as amended and supplemented by the amended declaration filed on April 2, 2019 [Docket No. 1181], and first and second supplemental declarations of Henry Weissmann filed on April 10, 2019 [Docket No. 1301] and June 14, 2019 [Docket No. 2522] (collectively, the “**Weissmann Declarations**”).

The *Order Authorizing Debtors Pursuant to 11 U.S.C. § 327(e) and Fed. R. Bankr. P. 2014(a) and 2016 for Authority to Retain and Employ Munger, Tolles & Olson LLP as Counsel for Certain Matters for the Debtors Effective as of the Petition Date* [Docket No. 1677] was entered on April 25, 2019 (the “**Retention Order**”). The Retention Order is attached hereto as **Exhibit A**. The Retention



1 Order authorizes MTO to provide services as described in the Retention Application and Weissmann  
2 Declarations (the “**Specific Matters**”), including:

- 3 a. Advising and representing the Debtors with respect to federal, state, and local laws and  
4 regulations as they relate to (1) wildfires and the effects of wildfire liabilities on the  
5 Debtors’ businesses; (2) the relative jurisdiction of the California Public Utilities  
6 Commission (“**CPUC**”), the Federal Energy Regulatory Commission (“**FERC**”), and  
7 federal courts, including the Bankruptcy Court; and (3) motions and other negotiations  
8 and proceedings in the chapter 11 cases, and other legal proceedings, that may affect the  
9 interests of the CPUC and/or parties in CPUC proceedings involving the Debtors,  
10 including matters that may affect or relate to the Debtors’ management, governance,  
11 structure, and rates;
- 12 b. Advising and representing the Debtors in CPUC Proceedings, including but not limited  
13 to: (a) R.19-01-006, Order Instituting Rulemaking to Implement Public Utilities Code  
14 Section 451.2 Regarding Criteria and Methodology for Wildfire Cost Recovery  
15 Pursuant to Senate Bill 901 (“**CPUC Proceeding R.19-01-006**”); (b) I.15-08-019,  
16 Order Instituting Investigation on the Commission’s Own Motion to Determine  
17 Whether Pacific Gas and Electric Company and PG&E Corporation’s Organizational  
18 Culture and Governance Prioritize Safety (“**CPUC Proceeding I.15-08-019**”); (c)  
19 A.19-02-016, Application of Pacific Gas and Electric Company for a Waiver of the  
20 Capital Structure Condition (“**CPUC Proceeding A.19-02-016**”); (d) A.18-11-001,  
21 Application of Pacific Gas and Electric Company to issue, sell, and deliver one or more  
22 series of Debt Securities and to guarantee the obligations of others in respect of the  
23 issuance of Debt Securities; to execute and deliver one or more indentures; to sell, lease,  
24 assign, mortgage, or otherwise dispose of or encumber utility property; to issue, sell and  
25 deliver in one or more series, cumulative Preferred Stock -- \$25 Par Value, Preferred  
26 Stock -- \$100 Par Value, Preference Stock or any combination thereof; to utilize various  
27 debt enhancement features; and enter into interest rate hedges (“**CPUC Proceeding**  
28 **A.18-11-001**”); (e) A.18-10-003, Application of Pacific Gas and Electric Company to

1 increase its authority to finance short-term borrowing needs and procurement-related  
2 collateral costs by \$2.0 billion to an aggregate amount not to exceed \$6.0 billion  
3 (“CPUC Proceeding A.18-10-003”); and (f) any other related or similar CPUC  
4 proceeding or other CPUC proceeding arising from the matters for which MTO is  
5 representing the Debtors;

- 6 c. Advising and representing the Utility regarding its rights and obligations under various  
7 power purchase agreements, including in connection with *NextEra Energy, Inc., et al. v.*  
8 *Pacific Gas and Electric Company*, FERC Docket No. 19-35-000, and *PG&E Corp. et*  
9 *al. v. Federal Energy Regulatory Commission*, Adv. Proc. No. 19-03003 (N.D. Cal.);  
10 advising and representing the Utility on any appeal from these matters and, potentially,  
11 as an amicus curiae in other proceedings involving similar legal issues;
- 12 d. Advising the Debtors regarding compliance with laws and regulations governing public  
13 utilities, including Division 1, Part 1 of the California Public Utilities Code and the  
14 CPUC’s affiliate transaction rules (including Decision 06-12-029 and related decisions);
- 15 e. Advising and representing the Debtors as necessary and appropriate with respect to  
16 potential actions by state government actors, including the legislature and the CPUC,  
17 that may affect or relate to the Debtors’ reorganization, plan, and operations, including  
18 with respect to liability standards, insurance and related cost-spreading regimes,  
19 recovery of costs in rates and the Debtors’ management, governance and structure;
- 20 f. Advising and representing the Debtors with respect to issues arising under California  
21 law that may affect or relate to the Debtors’ reorganization, plan and operations;  
22 California corporate law including but not limited to fiduciary duties and opinions  
23 regarding due authority; California law governing corporate forms; the California  
24 Public Records Act;
- 25 g. Advising and representing the Debtors with regard to potential criminal, civil, and  
26 administrative liability in connection with the 2017 and 2018 Northern California  
27 wildfires, including:
- 28

- 1                   i. Advising and representing the Debtors in civil or administrative proceedings  
2 relating to the 2017 and 2018 Northern California wildfires;  
3                   ii. Advising and representing the Debtors concerning the Butte County Settlement;  
4                   iii. Coordinating with Debtors' counsel in civil actions and administrative  
5 proceedings arising from wildfires to provide advice regarding potential impact  
6 on and coordination with the Debtors' response to and positions in the criminal  
7 investigations and any resulting prosecutions;  
8                   iv. Advising and representing the Debtors and coordinating with other counsel in  
9 connection with any possible or proposed resolutions or settlements of criminal,  
10 civil, or administrative liability arising from California wildfires; and  
11                  h. Providing all other necessary legal services for the Debtors, as related to the above  
12 matters, in connection with the above captioned chapter 11 cases, including fact  
13 investigation, legal researching, briefing, argument, discovery, reorganization, plan and  
14 disclosure statement matters, appearance and participation in hearings, and  
15 communications and meetings with parties in interest.

16                  The terms of MTO's engagement are detailed in the engagement letters attached as Exhibits 1  
17 through 6 to the initial Weissmann Declaration.

18 **C. No Adverse Interest with Respect to the Specific Matters**

19                  To the best of the Debtors' knowledge and as disclosed in the Weissmann Declarations, MTO  
20 does not hold or represents an interest adverse to the Debtors or their estates with respect to the Specific  
21 Matters. MTO may have in the past represented, may currently represent, and likely in the future will  
22 represent parties in interest in connection with matters unrelated to the Debtors in these chapter 11 cases.  
23 In the Weissmann Declarations, MTO disclosed its connections with parties in interest that it has been  
24 able to ascertain using its reasonable efforts. MTO will update its disclosures as appropriate if MTO  
25 becomes aware of relevant and material new information.

26                  MTO performed the services for which it is seeking compensation on behalf of the Debtors and  
27 their estates, and not on behalf of any committee, creditor, or other entity.

28                  Except to the extent of the advance payments paid to MTO that MTO previously disclosed to

1 this Court in the Weissmann Declarations, MTO has received no payment and no promises for  
2 payment from any source other than the Debtors for services provided or to be provided in any  
3 capacity whatsoever in connection with these chapter 11 cases.

4 Pursuant to Bankruptcy Rule 2016(b), MTO has not shared, nor has MTO agreed to share (a)  
5 any compensation it has received or may receive with another party or person other than with the  
6 partners, counsel, and associates of MTO or (b) any compensation another person or party has received  
7 or may receive.

#### 8 **Summary of Compliance with Interim Compensation Order**

9 This Fee Application has been prepared in accordance with the Interim Compensation Order.

10 MTO will file a consolidated monthly fee statement for January 29, 2019 through May 31,  
11 2019 shortly after this Fee Application has been filed.

12 MTO seeks interim compensation for professional services rendered to the Debtors during the  
13 Fee Period in the amount of \$6,653,996.00, which includes the 20% holdback under the Interim  
14 Compensation Order, and reimbursement of actual and necessary expenses incurred in connection with  
15 providing such services in the amount of \$99,363.65. During the Fee Period, MTO attorneys and  
16 paraprofessionals expended a total of 9,244.60 hours for which compensation is requested.

17 As disclosed in the Weissmann Declarations, as of the Petition Date, the retainer balance was  
18 \$790,678.66. MTO has reconciled the final fees and expenses incurred before the Petition Date. The  
19 total fees and expenses incurred but unpaid as of the time of the filing of these cases was \$39,933.05.  
20 Per the Retention Order, the retainer has been applied to those fees and expenses, and the balance of  
21 \$750,745.61 is being held by MTO until the conclusion of its engagement and applied to any fees or  
22 expenses awarded in a final fee application, with the remaining balance, if any, to be returned to the  
23 Debtors.

#### 24 **Fees and Expenses Incurred During the Fee Period**

##### 25 **A. Customary Billing Disclosures**

26 MTO's hourly rates are set at a level designed to compensate MTO fairly for the work of its  
27 attorneys and paraprofessionals and to cover overhead and operating expenses. The hourly rates and  
28 corresponding rate structure utilized by MTO in these chapter 11 cases are the same as the hourly rates

1 and corresponding rate structure MTO uses for other corporate, regulatory, litigation, and restructuring  
2 related matters, whether in court or otherwise, regardless of whether a fee application is required.  
3 MTO's rates and rate structure reflect the complex and time sensitive nature of the matters handled by  
4 MTO. For the convenience of the Bankruptcy Court and all parties in interest, attached hereto as  
5 **Exhibit B** is MTO's budget and staffing plan for this Interim Fee Period, and attached hereto as  
6 **Exhibit C** is a summary of blended hourly rates for timekeepers who billed to the Debtors during the  
7 Fee Period and a comparison to blended hourly rates on other matters.

8 **B. Fees Incurred During the Fee Period**

9 MTO maintains computerized records of the time expended to render the professional services  
10 required by the Debtors and their estates. For the convenience of the Court and all parties in interest,  
11 attached hereto as **Exhibit D** is a summary of fees incurred and hours expended during the Fee Period,  
12 setting forth the following information:

- 13 • the name of each attorney and paraprofessional for whose work on these chapter 11  
14 cases compensation is sought;
- 15 • each attorney's year of bar admission and area of practice concentration;
- 16 • the aggregate time expended and fees billed by each attorney and each  
17 paraprofessional during the Interim Fee Period;
- 18 • the hourly billing rate for each attorney and each paraprofessional at MTO's current  
19 billing rates; and
- 20 • the number of rate increases since the inception of the cases (of which there were  
21 none).

22  
23 **C. Expenses Incurred During the Fee Period**

24 MTO maintains a record of expenses incurred in the rendition of the professional services  
25 required by the Debtors and their estates and for which reimbursement is sought. For the convenience  
26 of the Court and all parties in interest, attached hereto as **Exhibit E** is a summary, setting forth the total  
27 amount of reimbursement for the Fee Period with respect to each category of expenses for which MTO  
28 is seeking reimbursement.

### Summary of Legal Services Rendered During the Fee Period

Below is a summary, by subject matter categories (each, a “Matter Category”) that MTO established for these chapter 11 cases in consultation with the Debtors, of the fees and hours billed for each Matter Category in the Fee Period (see Exhibit F):<sup>2</sup>

Matter Number	Project Category Description	Hours		Total Compensation		Expenses	Total
		Budgeted	Billed	Budgeted	Billed		
020	Legislative	505	472.20	\$428,425	\$402,118.00	-	\$402,118.00
021	Non-Bankruptcy Litigation – Criminal Wildfire Investigation	8,270	6,432.70	\$5,605,275	\$4,339,428.00	-	\$4,339,428.00
022	Non-Working Travel (hours at ½ amount budgeted/recorded by timekeeper)	160	217.50	\$164,125	\$200,770.50	-	\$200,770.50
023	Power Purchase Agreements (including Adversary Proceedings)	215	299.90	\$233,150	\$213,429.50	-	\$213,429.50
025	Regulatory	1,880	1,691.10	\$1,504,875	\$1,396,705.00		\$1,396,705.00
026	MTO Retention and Fee Applications	245	131.20	\$218,600	\$101,545.00	-	\$101,545.00
<b>Total</b>		<b>11,275</b>	<b>9,244.60</b>	<b>\$8,154,450</b>	<b>\$6,653,996.00</b>	<b>\$99,363.65</b>	<b>\$6,753,359.65</b>

A schedule setting forth a description of the Matter Categories utilized in this case, the number of hours expended by MTO partners, associates and paraprofessionals by Matter Category, and the aggregate fees associated with each Matter Category is attached hereto as Exhibit G. In addition, MTO’s computerized records of time expended and expenses incurred providing professional services to the Debtors and their estates are attached hereto as Exhibit H.

The following paragraphs provide summary descriptions of the most significant services rendered by MTO during the Fee Period. The descriptions are organized by Matter Category.

#### Legislative Issues [Matter No. 020]

Total Fees: \$402,118.00  
Total Hours: 472.20

This Matter Category represents time spent by MTO attorneys and paraprofessionals related to legislative issues being considered by the state of California. This work included review, analysis,

<sup>2</sup> For each Matter Category, the chart also shows the amount budgeted by MTO in accordance with the staffing and budget plan provided to the Debtors as required under the guidelines adopted by the Office of the United States Trustee.

1 research, and revision of proposed legislation related to wildfire liabilities and utility entities and their  
2 affiliates. This work included advising the Debtors on these matters and representing the interests of  
3 the Debtors with the state of California and other stakeholders.

4 **Non-Bankruptcy Litigation / Wildfire (Criminal) [Matter No. 021]**

5 Total Fees: \$4,339,428.00  
6 Total Hours: 6,432.70

7 This Matter Category relates to criminal investigations and potential criminal liability in  
8 connection with the 2017 and 2018 Northern California wildfires. This work includes extensive  
9 investigation and other discovery by MTO of the Debtors and communications with district attorneys  
10 offices within California and the Office of the Attorney General of the State of California. It also  
11 involves the provision of information and documents to those offices, including in response to specific  
12 requests for documents and other information. The investigation and discovery have required  
13 extensive travel by MTO and numerous interviews of the Debtors' personnel and former personnel and  
14 review of numerous records and documents. This matter category also includes time spent performing  
15 legal research and analysis and advising the Debtors on these matters and the October 2018 settlement  
16 with Butte County relating to the 2017 wildfires.

17  
18 **Non-Working Travel [Matter No. 022]**

19 Total Fees: \$200,770.50  
20 Total Hours: 217.50

21 This Matter Category reflects non-working travel time of MTO attorneys in providing services  
22 to the Debtors. This includes travel to Northern California and other locations for board meetings, court  
23 hearings, and various interviews, data or document collection, and other meetings related to the  
24 Specific Matters. The amount requested reflects a reduction of one half of the hours recorded by MTO  
25 timekeepers.

26 **Power Purchase Agreements (including Adversary Proceedings) [Matter No. 023]**

27 Total Fees: \$213,429.50  
28 Total Hours: 299.90

1 This Matter Category includes time spent by MTO attorneys and paraprofessionals providing  
2 services related to analysis of issues regarding potential appeals of disputes over the potential rejection  
3 of power purchase agreements in the Debtors' cases. This work has included analysis of legal issues,  
4 precedent, and the pending adversary proceedings involving counterparties to these agreements and  
5 FERC, as well as strategic advice to the Debtors regarding these matters.

6 **Regulatory Issues [Matter No. 025]**

7 Total Fees: \$1,396,705.00  
8 Total Hours: 1,691.10

9 This Matter Category includes time spent by MTO attorneys and paraprofessionals regarding  
10 regulatory matters before the CPUC. This work has involved a number of CPUC matters, including  
11 those referenced above under Specific Matters, the customer harm threshold proceeding,<sup>3</sup> and the  
12 safety culture investigation. MTO spent time reviewing filings and actions by the CPUC as well as  
13 other parties, conducting research on the issues raised by the CPUC, and preparing submissions and  
14 responses by the Debtors. MTO has also provided advice to the Debtors regarding these matters.

15 **Retention / Billing / Fee Applications: MTO [Matter No. 026]**

16 Total Fees: \$101,450.00  
17 Total Hours: 131.20

18 This Matter Category reflects time spent by MTO attorneys and paraprofessionals related to the  
19 retention of MTO by the Debtors. This category includes time spent preparing the Retention  
20 Application, and filing an amended, and two supplemental declarations in support of the Retention  
21 Application. This category also includes time spent preparing the budget and staffing plans as required  
22 by the U.S. Trustee and working with the Debtors to establish the Matter Categories, and budget and  
23 billing procedures required by the Debtors, and preparing monthly and interim fee application exhibits.

24 **Actual and Necessary Expenses Incurred by MTO**

25 As set forth in **Exhibit H** attached hereto, and as summarized in **Exhibit E** attached hereto,  
26 MTO has incurred a total of \$99,363.65 in expenses on behalf of the Debtors during the Fee Period.

27  
28 <sup>3</sup> MTO will record time related to the customer harm proceeding under Matter Category 21  
beginning with time recorded on or after July 1, 2019 per discussion with the Debtors.



1 These charges are intended to reimburse MTO's direct operating costs, which are not incorporated into  
2 the MTO hourly billing rates. MTO charges external copying at the provider's cost without markup.  
3 Only clients who actually use services of the types set forth in **Exhibit H** of this Fee Application are  
4 separately charged for such services.

#### 5 **Client Review of Billing Statements**

6 Pursuant to the Local Guidelines, a cover letter was sent to the Debtors with a copy of the Fee  
7 Application concurrently with the filing of this Fee Application. The letter invites the Debtors to  
8 discuss with MTO and/or the U.S. Trustee any objections, concerns, or questions the Debtors may  
9 have with regard to the requested compensation and reimbursement set forth in the Fee Application. A  
10 copy of the transmittal letter is attached hereto as **Exhibit I**.

#### 11 **Reasonable and Necessary Services Provided by MTO**

##### 12 **A. Reasonable and Necessary Fees and Expenses Incurred in Providing Services to the** 13 **Debtors**

14 MTO respectfully submits that the professional services provided to the Debtors during the Fee  
15 Period were reasonable, necessary, and appropriate to the administration of these chapter 11 cases and  
16 related matters. MTO makes every reasonable effort to ensure that travel meals, hotel rates, and  
17 airfares are reasonable and appropriate expenses for which to seek reimbursement.

18 MTO regularly reviews its bills to ensure that the Debtor is only billed for services that were  
19 actual and necessary and, where appropriate, prorates expenses.

#### 20 **MTO's Requested Compensation and Reimbursement Should be Allowed**

21 Section 330 of the Bankruptcy Code provides that a court may award a professional employed  
22 under section 327 of the Bankruptcy Code "reasonable compensation for actual, necessary services  
23 rendered . . . and reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Section 330  
24 also sets forth the criteria for the award of such compensation and reimbursement:

25 In determining the amount of reasonable compensation to be awarded to  
26 an examiner, trustee under chapter 11, or professional person, the court  
27 shall consider the nature, the extent, and the value of such services,  
taking into account all relevant factors, including –

28 (a) the time spent on such services;

(b) the rates charged for such services;

- 1 (c) whether the services were necessary to the administration  
2 of, or beneficial at the time at which the service was  
3 rendered toward the completion of, a case under this title;
- 4 (d) whether the services were performed within a reasonable  
5 amount of time commensurate with the complexity,  
6 importance, and nature of the problem, issue, or task  
7 addressed;
- 8 (e) with respect to a professional person, whether the person is  
9 board certified or otherwise has demonstrated skill and  
10 experience in the bankruptcy field; and
- 11 (f) whether the compensation is reasonable based on the  
12 customary compensation charged by comparably skilled  
13 practitioners in cases other than cases under this title.

14 11 U.S.C. § 330(a)(3).

15 In determining the amount of allowable fees under Bankruptcy Code section 330(a), courts are  
16 to be guided by the same “general principles” as are to be applied in determining awards under the  
17 federal fee-shifting statutes, with “some accommodation to the peculiarities of bankruptcy matters.”  
18 *Burgess v. Klenske (In re Manoa Finance Co., Inc.)*, 853 F.2d 687, 691 (9th Cir. 1988). In assessing  
19 the propriety of an award of attorneys’ fees, twelve factors relevant to determining such fees were  
20 identified in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-719 (5th Cir. 1974), a Title  
21 VII class action case under the Civil Rights Act of 1964, 42 U.S.C. § 2000 et seq., and *Kerr v. Screen*  
22 *Extras Guild, Inc.*, 526 F.2d 67, 70 (9th Cir. 1975), *cert. denied*, 425 U.S. 951 (1976): (1) the time and  
23 labor required, (2) the novelty and difficulty of the questions, (3) the skill requisite to perform the  
24 service properly, (4) the preclusion of other employment by the professional due to acceptance of the  
25 case, (5) the customary fee, (6) whether the fee is fixed or contingent, (7) time limitations imposed by  
26 the client or the circumstances, (8) the amount involved and the results obtained, (9) the experience,  
27 reputation, and ability of the professionals, (10) the undesirability of the case, (11) the nature and  
28 length of the professional relationship with the client, and (12) awards in similar cases. *See American*  
*Benefit Life Ins. Co. v. Baddock (In re First Colonial Corp. of America)*, 544 F.2d 1291 (5th Cir. 1977)  
(*Johnson* criteria applicable in bankruptcy cases.).

In making a fee award, bankruptcy courts should consider the circumstances of the case, and

1 the manner in which professional services were performed, as well as the results achieved. *Roberts,*  
2 *Sheridan & Kotel, P.C. v. Bergen Brunswig Drug Co. (In re Mednet MPC Corp.)*, 251 B.R. 103, 108  
3 (9th Cir. BAP 2000). When determining whether the services were actual and necessary, “a  
4 professional need demonstrate only that the services were reasonably likely to benefit the estate at the  
5 time rendered.” *Id.* at 108. Thus, while it is a relevant factor, § 330(a) “does not require that the  
6 services result in a material benefit to the estate in order for the professional to be compensated.” *Id.*

7 MTO respectfully submits that the services for which is seeks compensation in this Fee  
8 Application were, at the time rendered, beneficial to the Debtors and necessary to the administration of  
9 these chapter 11 cases. MTO believes that it performed the services for the Debtors economically,  
10 effectively, and efficiently, and the results obtained benefited not only the Debtors, but were necessary  
11 for the administration of the Debtors’ cases. MTO further submits that the compensation requested  
12 herein is reasonable in light of the nature, extent and value of such services to the Debtors, and all  
13 parties in interest and satisfy the *Johnson* factors.

14 During the First Interim Fee Period, MTO’s hourly billing rates for attorneys ranged from  
15 \$460.00 to \$1,500.00. **Exhibit C** contains information regarding the blended hourly rates for MTO  
16 professionals and paraprofessionals who rendered services to the Debtors in the First Interim Fee  
17 Period. The hourly rates and corresponding rate structure utilized by MTO in these chapter 11 cases  
18 are equivalent to the hourly rates and corresponding rate structure used by MTO for corporate,  
19 regulatory, litigation, and restructuring related matters, whether in court or otherwise, regardless of  
20 whether a fee application is required. MTO strives to be efficient in the staffing of matters. These  
21 rates and the rate structure reflect that such matters are typically national in scope and involve great  
22 complexity, are of significant and material importance to our clients, and involve severe time  
23 pressures—all of which are present in these chapter 11 cases. MTO believes that its hourly rates are  
24 consistent with the rates charged elsewhere by comparable professionals, including those retained in  
25 these chapter 11 cases.

26 In sum, MTO respectfully submits that the professional services provided by MTO on behalf of  
27 the Debtors and their estates during these chapter 11 cases were necessary and appropriate given the  
28 complexity of these chapter 11 cases, the time expended by MTO, the nature and extent of MTO’s

1 services provided, the value of MTO's services, and the cost of comparable services outside of  
2 bankruptcy, all of which are relevant factors set forth in section 330 of the Bankruptcy Code.  
3 Accordingly, MTO respectfully requests approval of the compensation sought herein.

4 **Statement Regarding United States Trustee Guidelines**

5 The following information is provided in response to information requested in the guidelines  
6 promulgated by the U.S. Trustee:

7 **Question:** Did MTO agree to any variations from, or alternatives to, MTO's  
8 standard or customary billing arrangements for this engagement?

9 **Response:** No.

10 **Question:** If the fees sought in this Fee Application as compared to the fees  
11 budgeted for the time period covered by this Fee Application are higher by 10% or  
more, did you discuss the reasons for the variation with the Debtors?

12 **Response:** The fees sought are not higher by 10% or more than budgeted.

13 **Question:** Have any of the professionals whose fees are sought in the Fee  
14 Application varied their rate based on the geographic location of the Debtors  
15 chapter 11 cases?

16 **Response:** No.

17 **Question:** Does the Fee Application include time or fees related to reviewing or  
18 revising time records or preparing, reviewing, or revising invoices? (This is limited  
19 to work involved in preparing and editing billing records that would not be  
compensable outside of bankruptcy and does not include reasonable fees for  
preparing a fee application). If so, please quantify by hours and fees.

20 **Response:** MTO is seeking compensation with respect to the approximately 31.7  
21 hours and \$21,747.00 in fees spent reviewing or revising time records and  
22 preparing, reviewing, and revising invoices for privileged or confidential  
information during the First Interim Fee Period.

23 **Question:** If the Fee Application includes any rate increase since retention, (i) Did  
24 your client review and approve those rate increases in advance?; and (ii) Did your  
client agree when retaining the law firm to accept all future rate increases?

25 **Response:** The Fee Application does not include any rate increases since retention.

26 **Reservation of Rights**

27 It is possible that some professional time expended or expenses incurred during the Interim Fee  
28 Period are not reflected in this Application. MTO reserves the right to include such amounts in future

1 fee applications.

2 **Notice**

3 The Debtors will provide notice of this Fee Application in accordance with the Interim  
4 Compensation Order.

5 **No Prior Request**

6 No prior application for the relief requested herein has been made to this or any other court.  
7

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WHEREFORE, MTO respectfully requests that the Bankruptcy Court enter an order: (a) awarding MTO compensation for professional and paraprofessional services provided during the Interim Fee Period in the amount of \$6,653,996.00, and reimbursement of actual, reasonable and necessary expenses incurred in the Interim Fee Period in the amount of \$99,363.65; (b) authorizing and directing the Debtor to remit payment to MTO for such fees and expenses; and (c) granting such other relief as is appropriate under the circumstances.

Dated: July 15, 2019

Respectfully submitted,

MUNGER, TOLLES & OLSON LLP

By: /s/ Bradley Schneider  
Bradley Schneider

### *Attorneys for Debtors and Debtors in Possession*